No FEAR Act

P.L. 107-174

15 May 2002

Notification and
Federal **E**mployee **A**nti-discrimination &
Retaliation

No FEAR

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," which is now known as the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Pub. L. 107-174. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Pub. L. 107-74, Title I, General Provisions, Section 101(1).

Equal Opportunity and Treatment

It is the policy of the Government of the United States to provide equal opportunity in federal employment regardless of race, color, religion, sex (to include sexual harassment), age, national origin, and physical or mental disability, and to promote the full realization of equal employment opportunity through a continuing affirmative program in each executive department and agency. The policy of equal employment opportunity applies to, and must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the

The U.S. Air Force of the 21st Century

AFSO21 and Equal Opportunity is a natural partnership

The U.S. Air Force of the 21st Century

No matter what our background, where we live, or when we started our careers in the AF, we have one huge thing in common - - - - The MISSION. We cannot afford to let Equal Opportunity or Retaliation issues impede our operations or mission imperatives. Our Equal Opportunity posture directly contributes to the AFSO21 pillar of Respect for our People. The Air Force of the 21st Century will be leaner and more diverse and respect will be what sees our people through the difficult times. Respect for ourselves will ensure our SERVICE to others.

Zero Tolerance

The Air Force is committed to providing a work environment where military members and civilian employees are treated with respect and dignity. Harassment of any person based on race, color, sex, religion, national origin, age, disability, reprisal or any other category protected by law or policy will not be tolerated. Harassment by anyone, including harassment by any manager, supervisor, work leader, co-worker, or contractor is strictly prohibited. Violators face the possibility of removal from employment or other

Why No FEAR?

- Evaluate federal agencies' compliance
- Provide congressional oversight
- Assure federal agencies' accountability

Why No FEAR?

The Bottom Line: Congressional action through the No FEAR Act places emphasis on improved government performance through enforcement, compliance, and accountability with existing employment discrimination, whistleblower, and retaliation prohibitions.

Overview of EEO and Whistleblower Laws:

- Title VII of the Civil Rights Act
  - Race, Color, Sex, National Origin, Religion, Retaliati
- Age Discrimination in Employment Act (ADEA)
  - 40 years of age or older, Retaliation
- Rehabilitation Act (and Americans w/ Disabilities Act)
  - Disability, Accommodation, Retaliation
- Fair Labor Standards Act (FLSA)
- Equal Pay Act (EPA)
  - Equal Pay for Equal Work, Retaliation

Civil Rights Laws prohibit discrimination and retaliatio

Overview of EEO and Whistleblower Laws: Cont.

- Prohibited Personnel Practices Statute
  - EEO Discrimination
  - Marital and Parental Status
  - Sexual Orientation
  - Political Affiliation

- Whistleblower Protection Act
  - Protected disclosure regarding fraud,
    waste, abuse or gross

Other Laws and Policies that prohibit discrimination and re

Employee Protections

Federal agencies cannot discriminate against an employee or applicant with respect to the terms, conditions or privileges of employment on the-basis of race, color, religion, sex, national origin, age, disability, marital and parental status, sexual orientation or political affiliation.

Avenues of Redress

If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, age, national origin, disability or reprisal for participating or supporting Equal Employment Opportunity (EEO) laws, you must contact an EEO counselor within 45 calendar days of the alleged discriminatory action, or, in the case of a personnel action, within 45 calendar days of the effective date of the action, before you can file a formal complaint of discrimination with the Air Force.

Avenues of Redress

If you are alleging discrimination based on marital status or political affiliation, you may file a written complaint with the U.S. Office of Special Counsel (OSC) (see contact information later). Alternatively (or in some cases, in addition), you may pursue a discrimination complaint by filing a grievance through installation's administrative or negotiated grievance procedures, if such procedures apply and are available.

Anti Harassment Policy

Harassment includes unwelcome conduct, whether verbal, physical or visual, which creates an intimidating, offensive or hostile work environment or that unreasonably interferes with job performance.

Sexual Harassment

Sexual harassment deserves special mention. Sexual harassment includes one or more unwelcome sexual advances, request for sexual favors, or other unwelcome physical, verbal or visual conduct of a sexual nature where:

(1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of employment;

Sexual Harassment cont.

(2) submission to or rejection of such conduct by an individual is used as a basis for career or employment decisions affecting that individual; or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive work environment.

Whistleblower Protection Laws

A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take or fail to take, a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Avenue of Redress

If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel at 1730 M Street NW., Suite 218, Washington, DC 20036-4505 or online through the OSC Web site -- www.osc.gov.

Disciplinary Actions

Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

“What does it mean to me?”

- It means Accountability to the law has been strengthened;
- It means the Air Force is enhancing its role in being responsible for eradicating discrimination and retaliation in the workplace;
- It means you can expect swift and appropriate action where violations are substantiated
- It means you can expect a work environment where you can perform to your highest potential and contribute to effective government operations.

Responsibility and Accountability

"What does No FEAR mean to me?" cont.

All personnel have the responsibility to make these anti-discrimination/harassment laws and policies effective. Personnel should IMMEDIATELY report all violations to: (1) their supervisor; (2) another supervisor within their chain of command; and/or (3) (for discrimination) EEO counselor or the HQ AFPC Complaint Hotline (1-800-616-3775 option 8, Contact.center@randolph.af.mil) or (for whistleblowers) U.S. Office of Special Counsel (OSC). Do not wait for the conduct to become severe or pervasive; instead, report it as early as possible. No